

Agricultural Marketing Service, USDA

§ 993.65

EFFECTIVE DATE NOTE: At 70 FR 30613, May 27, 2005, § 993.59 was suspended indefinitely.

PRODUCER DIVERSION

§ 993.62 Diversion privileges.

(a) *Prune plums.* The words *prune plums* as used in this section mean plums of a variety used in the production of prunes.

(b) *Voluntary principle.* No producer shall be required to divert all or any portion of the prune plums produced by him.

(c) *Authorization.* If, on the basis of a committee recommendation for diversion operations, the availability of governing rules and procedures established by the Secretary after recommendation of the committee, and other information, the Secretary concurs that diversion operations should be permitted, he shall authorize such operations.

(d) *Diversion certificates.* After diversion operations are authorized, and subject to the applicable rules and procedures, any producer may divert prune plums of his own production for eligible purposes and receive from the committee a diversion certificate therefor: *Provided*, That diversion certificates for prune plums diverted by producer members of a cooperative marketing association shall be issued by the committee to the association if it so requests. To the extent permitted by the rules and procedures, the certificate may be submitted to any handler in lieu of reserve prunes and to the same extent the certificate shall entitle the handler to satisfy his reserve obligation. Only to the extent permitted by the rules and procedures, diversion certificates may be transferable among producers and handlers.

(e) *Eligible diversions.* Within such restrictions as may be prescribed in rules and procedures, diversion may be authorized for such dispositions as are not competitive with the normal marketing of prunes and prune products. Such eligible diversions may include: (1) Disposal of prune plums for nonhuman use; (2) leaving prune plums unharvested; and (3) such other methods of diversion as may be authorized. No diversion certificate shall be issued by the committee for prune plums which would not, under normal pro-

ducer practices, be dried and delivered to a handler.

(f) *Nonparticipation in pool proceeds.* Any prune plums diverted pursuant to this section shall not be included in any reserve pool.

(g) *Payment of costs.* Prior to the issuance of a diversion certificate to a producer or a cooperative marketing association, the producer or association shall pay to the committee fees established to cover costs pertaining to the diversion.

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DISPOSITION OF RESERVE PRUNES

§ 993.65 Disposition of reserve prunes.

(a) *Committee's right of disposition.* The committee shall have the power and authority to sell or dispose of any and all reserve prunes (1) to meet demand either (i) as domestic trade demand, or (ii) as foreign trade demand, or (2) for use in any outlet, defined in rules and procedures, established by the Secretary after recommendation of the committee, noncompetitive with normal outlets for salable prunes.

(b) *Methods of disposition.* The committee may, for any of the purposes of § 993.65(a), offer to sell and sell reserve prunes to handlers for disposition or sale by them in specified outlets. Sale of reserve prunes by the committee to any handler for resale in such outlets or for resale to other persons for sale in such outlets shall be governed by the provisions of a sales agreement, executed by the handler with the committee. The committee may refuse to sell reserve prunes to any handler if the handler violates the terms and conditions of the agreement or other provisions of this part. The committee may sell reserve prunes into any outlet in which direct selling is determined to be more appropriate.

(c) *Offers to sell reserve prunes.* No offer to sell reserve prunes either to handlers or to other persons shall be made by the committee until 5 days (exclusive of Saturdays, Sundays, and holidays) have elapsed from the time it files with the Secretary complete information as to the terms and conditions of the proposed offer including